



California Regulatory Notice Register

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DECEMBER 22, 2006

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest code of the following:

STOCKTON EAST WATER DISTRICT (AMENDMENT) EASTERN WATER ALLIANCE (ADOPTION)

A written comment period has been established commencing on **December 22, 2006** and closing on **February 5, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention Tara Stock, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code, proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code. Any written comments

must be received no later than **February 5, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3591.2, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Eradication Area as an emergency action that was effective on November 8, 2006. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than March 8, 2007.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before February 5, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3591.2, subsection (a), was amended and established Riverside County as an eradication area for Oriental fruit fly, *Bactrocera dorsalis*. The effect of this action was to establish authority for the State to conduct eradication activities in Riverside County against this pest. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3591.2 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.2 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be

more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3591.6, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3591.6, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and

strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 05. CALIFORNIA STUDENT AID COMMISSION

NOTICE OF PROPOSED RULEMAKING

AMENDMENT TO TITLE 5, CA CODE OF REGULATIONS TO ADOPT REGULATIONS REGARDING NATIONAL GUARD ASSUMPTION PROGRAM OF LOANS FOR EDUCATION (NGAPLE) — (EDUCATION CODE 69750 *et seq.*)

NATURE OF PROCEEDING

Notice is given that the California Student Aid Commission (CSAC) is proposing to adopt regulations regarding the National Guard Assumption Program of Loans for Education (NGAPLE), as described in the Informative Digest.

A public hearing regarding this proposal is currently not scheduled. However, any interested person or duly authorized representative may request, no later than 15 days before the close of the written comment period, that a public hearing be scheduled. Such request must be made to the contact person(s) identified below.

Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, CSAC, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days before its adoption from the person(s) designated in this Notice as contact person(s) and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is

held, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

California Student Aid Commission
Attention: Linda Brown
P.O. Box 419029
Rancho Cordova, CA 95741-9029

Comments may also be submitted by facsimile (FAX) at (916) 526-7977 or by e-mail to ccortez@csac.ca.gov. Comments must be received by 5:00 p.m. on February 5, 2007.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 69751 of the Education Code, and to implement, interpret, or make specific sections 69750-69751.8 of the Education Code, CSAC is proposing to adopt Title 5 of the California Code of Regulations sections 30710-30718 to implement, interpret, and make specific sections 69750-69751.8 of the Education Code establishing NGAPLE.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The broad objective of this proposal is to implement, interpret and make specific the provisions of Education Code sections 69750-69751.8, which establish NGAPLE.

This program authorizes CSAC to make student loan payments on behalf of program participants who took out those loans to finance undergraduate education or specified vocational training. The loan payments would begin only after participants enlist or reenlist in the National Guard, the State Military Reserve, or the Naval Militia and after they complete one year of satisfactory military service. The students are obligated to serve for four consecutive years in the National Guard, the State Military Reserve, or the Naval Militia. CSAC will select participants in the program from applicants meeting specified criteria. The Legislature's stated intent for this loan assumption program is "to provide an incentive for persons to enlist or reenlist in the National Guard, the State Military Reserve, or the Naval Militia within the meaning of Section 66025.6 who seek, or who have completed, degrees at institutions of higher education within this state or who are enrolled in or have completed a program of instruction in a vocational diploma program, as defined in Section 94746, where enrollment qualifies a student for participation in the

Federal Family Educational Loan program or any program approved by the Student Aid Commission for this purpose." (Ed. Code, Section 69750).

The proposed regulations would implement, interpret, and make specific the elements of NGAPLE. Specifically, the proposal would:

1. Define terms used in the regulations;
2. Establish and specify the requirements for applications to participate in the program;
3. Establish and specify the requirements for the nominations of applicants by the Office of the Adjutant General;
4. Establish the process by which CSAC will select program participants from among the nominated applicants;
5. Specify the requirements for loan assumption agreements between the selected program participants and CSAC;
6. Specify the requirements under which CSAC may make loan payments on behalf of the program participants;
7. Specify the consequences of a program participant's failure to complete the requirements for loan payments.

There are no comparable provisions of federal law related to this proposal.

OTHER STATUTORY REQUIREMENTS

CSAC has consulted with the California Military Department as required by Education Code Section 69751(a) regarding the proposed regulations.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

COSTS OR SAVINGS TO STATE AGENCIES

The statute is the driver of any expenditure that may be incurred to implement and to continue the program.

Existing law will have a fiscal impact to Local Assistance as benefits are paid to program participants. These regulations do not impose any additional fiscal obligation.

Starting in Fiscal Year 2006–07, the California Student Aid Commission and the Office of Adjutant General will absorb all administrative costs to implement this program with existing resources. Existing law is mandating that the Office of Adjutant General process and approve NGAPLE applications and send nominations to the California Student Aid Commission to issue warrants to qualified participants of this program.

However, should the need for additional State Operations support or resources arise due to external or unforeseen program changes, Budget Change Proposals may be submitted to the Department of Finance demonstrating the program changes and impact to State Operations. For example, if one additional position and a minimal amount of operating expense are needed in each agency, the potential fiscal impact to the Office of Adjutant General and the California Student Aid Commission would be approximately \$100,000 and \$80,000 respectively.

EFFECT ON HOUSING COSTS:

This proposal does not affect housing costs.

BUSINESS IMPACT/SMALL BUSINESSES

CSAC has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by section 11342.610.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

CSAC has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PERSON OR BUSINESS

CSAC is not aware of any cost impacts that a representative private person or business would necessarily

incur in reasonable compliance with the proposed action.

BUSINESS REPORT

This regulatory proposal does not require a report.

ALTERNATIVES

CSAC must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comment may be directed to:

Linda Brown
California Student Aid Commission
P. O. Box 419029
Rancho Cordova, CA 95741–9029

(916) 526–7599

or

Clarita Cortez
California Student Aid Commission
P. O. Box 419029
Rancho Cordova, CA 95741–9029

(916) 526–7953

AVAILABILITY OF TEXT OF PROPOSAL, INITIAL STATEMENT OF REASONS AND OTHER INFORMATION

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all the information upon which the proposal is based may be obtained upon request from CSAC, P. O. Box 419029, Rancho Cordova, CA 95741–9029, addressed to the contact person(s) identified in this Notice. These documents may also be viewed and downloaded from the CSAC website at www.csac.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

**TITLE 05. CALIFORNIA STUDENT AID
COMMISSION**

**NOTICE OF PROPOSED RULEMAKING
AMENDMENT TO TITLE 5, CA CODE OF
REGULATIONS REGARDING
STATE NURSING ASSUMPTION PROGRAM
OF LOANS FOR EDUCATION FOR
NURSING FACULTY
(SNAPLE NF) — (EDUCATION CODE
70100 *et seq.*)**

NATURE OF PROCEEDING

Notice is given that the California Student Aid Commission (CSAC) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal is currently not scheduled. However, any interested person or duly authorized representative may request, no later than 15 days before the close of the written comment period, that a public hearing be scheduled.

Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, the California Student Aid Commission, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days before its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the:

California Student Aid Commission
Attention: Linda Brown
P.O. Box 419029
Rancho Cordova, CA 95741-9029

Comments may also be submitted by facsimile (FAX) at (916) 526-7977 or by e-mail to snapple@csac.ca.gov. Comments must be submitted before 5:00 p.m. on February 05, 2007.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 70106 of the Education Code, and to implement, interpret, or make specific sections 70100-70110 of the Education Code, the California Student Aid Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations as follows: adopt sections 30910-30917 to implement, interpret, and make specific sections 69161-69617 of the Education Code establishing the State Nursing Assumption Program of Loans For Education for Nursing Faculty (SNAPLE NF).

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The broad objective of this proposal is to implement the SNAPLE NF student loan payment program established by Education Code sections 70100-70110.

Chapter 73 of the Statutes of 2005 enacted the State Nursing Assumption Program of Loans for Education for Nursing Faculty (SNAPLE NF) in Education Code sections 70100-70107. This program authorizes CSAC to make payments for student loans on behalf of program participants who took out those loans to finance their graduate or undergraduate nursing education. The loan payments would begin only after those program participants obtain their graduate or undergraduate nursing degrees and after they complete an academic year of full-time, or the part-time equivalent, teaching in a nursing program in an accredited California college or university. The students are obligated to teach for three consecutive academic years of full-time teaching, or the equivalent on a part-time teaching basis. CSAC is required to select participants in the program from nominees, meeting specified criteria, submitted by accredited colleges and universities. The Legislature's stated intent for this loan assumption program is that it "be designed to encourage persons to complete their graduate educations and serve as nursing faculty at an accredited California college or university." (Educ. Code, § 70100(c).) Recognizing the growing need for new faculty members in the nursing field at California's colleges and universities, the Legislature found that "the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a graduate degree in nursing education." (Educ. Code, § 70100(b).)

The proposed regulations would implement, interpret, and make specific the elements of SNAPLE. Specifically, the proposal would:

1. Define terms used in the regulations;

2. Establish and specify the requirements for applications to participate in the program;
3. Establish and specify the requirements for the nominations of students for the program by accredited colleges or universities that decide to participate in the program;
4. Establish the process by which CSAC will select program participants from among the nominated students;
5. Specify the requirements for loan assumption agreements between the selected program participants and CSAC;
6. Specify the requirements under which CSAC may make loan payments on behalf of the program participants;
7. Specify the consequences of a program participant's failure to complete the obligation to teach nursing.

There are no comparable provisions of federal law related to this proposal.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

COSTS OR SAVINGS TO STATE AGENCIES

None.

EFFECT ON HOUSING COSTS

None

BUSINESS IMPACT/SMALL BUSINESSES

CSAC has made an initial determination that the proposed regulatory action would have no significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to

compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by section 11342.610. This proposal would affect a private sector or small business only if a private sector college or university voluntarily chooses to nominate its students to participate in SNAPLE.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

CSAC has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT

This regulatory proposal does not require a report.

ALTERNATIVES

CSAC must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries concerning the proposed adoption of this regulation and written comment may be directed to:

Linda Brown
California Student Aid Commission
P. O. Box 419029
Rancho Cordova, CA 95741-9029

(916) 526-7599

or

Clarita Cortez
California Student Aid Commission
P. O. Box 419029
Rancho Cordova, CA 95741-9029

(916) 526-7953

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all the information upon which the proposal is based may be obtained upon request from CSAC, P. O. Box 419029, Rancho Cordova, CA 95741-9029. These documents may also be viewed and downloaded from the CSAC website at www.csac.ca.gov.

INITIAL STATEMENT OF REASONS AND INFORMATION

CSAC has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.csac.ca.gov.

TITLE 8. DIVISION OF LABOR STANDARDS ENFORCEMENT

NOTICE OF PROPOSED RULEMAKING

The Division of Labor Standards Enforcement (DLSE) proposes to adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PUBLIC HEARINGS

DLSE has scheduled one public hearing on this proposed action:

San Francisco

Date: February 7, 2007

Time: 10:00 a.m.

Place: Hiram Johnson State Building, Auditorium
455 Golden Gate Avenue, San Francisco,
CA 94102

Please note that public comment will begin promptly at 10:00 a.m. and will conclude at 12 noon or when the last speaker has finished his or her presentation, whichever occurs last.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. DLSE requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or authorized representative, may submit written comments to DLSE relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on February 7, 2007. All comments must be submitted in writing (by mail, fax, or e-mail) and received by that time by DLSE's Regulation Coordinator. Submit comments to:

Susie Smith, Regulation Coordinator
Division of Labor Standards Enforcement
Department of Industrial Relations
801 "K" Street, Suite 2100
Sacramento, CA 95814
E-mail: sesmith@dir.ca.gov
FAX (916) 322-1267

PROPOSED REGULATORY ACTION

DLSE proposes to adopt Sections 13700 through 13706, Travel Expense Reimbursements, in Title 8 of the California Code of Regulations.

DLSE proposes to adopt Sections 13700 through 13706 to: 1) explain the requirements and specify the methods by which employers may reimburse employees for travel expenses necessarily incurred in connection with the use of personal vehicles for work, and overnight travel for work under Labor Code Sections 2802 and 2804; 2) define certain key terms to ensure that the content and meaning of the regulations are clearly understood by the regulated community; 3) clearly apprise employers and employees of what records must be kept and made readily available to DLSE for inspection and copying so that the state's wage and hour laws can efficiently and effectively be enforced; 4) inform employers of the potential consequences they may face for failing to provide the records or for providing falsified records; 5) ensure that the Legislature's in-

tent that employees be indemnified for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties is carried out; and 6) establish the procedures for recovering unpaid travel reimbursement moneys and attorneys fees under Labor Code Section 2802(b) and (c).

AUTHORITY AND REFERENCE

Labor Code Sections 53, 54, 55, 59, 95(a), 96(a), 98(a), and 98.8 authorize DLSE to promulgate the proposed regulations, which will implement, interpret and make specific Labor Code Sections 2802 and 2804 as follows:

Labor Code Section 53 provides that the Director of the Department of Industrial Relations is the "head of the department" for purposes of Section 1001 and Part 1 (commencing with Section 11000) of Division 3 of Title 2 of the Government Code, including the provisions on administrative rulemaking, except for those matters which are specifically committed to one of the divisions of the department.

Labor Code Section 54 authorizes the Director of the Department of Industrial Relations to perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the department, except as otherwise expressly provided.

Labor Code Section 55 authorizes the Director of the Department of Industrial Relations, notwithstanding any provision in the Labor Code to the contrary, to require any division in the department to assist in the enforcement of any or all laws within the jurisdiction of the department. This Section also authorizes the Director to make rules and regulations that are reasonably necessary to carry out the provisions of the Labor Code relating to the Department of Industrial Relations and to effectuate its purposes.

Labor Code Section 59 mandates the Department of Industrial Relations, through its appropriate officers, to administer and enforce all laws imposing any duty, power, or function upon the offices or officers of the department.

Labor Code Section 95(a) authorizes DLSE to enforce the provisions of the Labor Code and all labor laws of the state the enforcement of which is not specifically vested in any other officer, board or commission.

Labor Code Section 96(a) expressly authorizes the Labor Commissioner to accept and process claims for incidental expenses.

Labor Code Section 98(a) authorizes the Labor Commissioner to investigate employee complaints.

Labor Code Section 98.8 authorizes the Labor Commissioner to promulgate all regulations and rules of

practice and procedure necessary to carry out the provisions of Chapter 4 of Division 1 of the Labor Code.

The above cited Labor Code Sections provide DLSE with the authority to interpret Labor Code Sections 2802 and 2804 for purposes of enforcing these statutes. Furthermore, in the 1996 California Supreme Court case of Tidewater Marine Western, Inc. v. Victoria L. Bradshaw (14 Cal. 4th 557, 569–70), the Supreme Court provided:

"The DLSE's primary function is enforcement, not rulemaking. . . Nevertheless, recognizing that enforcement requires some interpretation and that these interpretations should be uniform and available to the public, the Legislature empowered the DLSE to promulgate necessary 'regulations and rules of practice and procedure.'"

The finding in the Tidewater case confirms that DLSE has the authority to interpret Labor Code Sections 2802 and 2804 for purposes of interpreting these statutes for enforcement purposes.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing statute provides that an employer is required to indemnify an employee for all necessary expenditures or losses incurred as a direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer as specified (Labor Code Section 2802).

Existing statute specifies that any contract or agreement, express or implied, made by an employee to waive these benefits is null and void (Labor Code Section 2804).

The proposed regulations would: 1) explain the requirements and specify the methods by which employers may reimburse employees for travel expenses necessarily incurred in connection with the use of personal vehicles for work, and overnight travel for work under Labor Code Sections 2802 and 2804; 2) define certain key terms to ensure that the content and meaning of the regulations are clearly understood by the regulated community; 3) clearly apprise employers and employees of what records must be kept and made readily available to DLSE for inspection and copying so that the state's wage and hour laws can efficiently and effectively be enforced; 4) inform employers of the potential consequences they may face for failing to provide the records or for providing falsified records; 5) ensure that the Legislature's intent that employees be indemnified for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties is carried out; and 6) establish the procedures for recovering unpaid travel reimbursement moneys and attorneys fees under Labor Code Section 2802(b) and (c).

DISCLOSURES REGARDING THE
PROPOSED ACTION

Local Mandate Determination:

DLSE has determined that the proposed regulatory action does not impose any mandate on local agencies or school districts.

Costs on Local Agencies or School Districts:

DLSE has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. Furthermore, DLSE has determined that the proposed regulatory action does not impose costs on any local agency or school district which must be reimbursed in accordance with Government Code Section 17561.

Cost or Savings to State Agencies:

DLSE has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

**Significant Statewide Adverse Economic Impact
Directly Affecting Businesses:**

DLSE has made an initial determination that adoption of these regulations will not have a significant statewide adverse economic impact on directly affected businesses, including the ability of California businesses to compete with businesses in other states.

**Creation, Elimination, or Expansion of Jobs or
Businesses (Results of Assessment under
Government Code Section 11346.3(b)):**

DLSE has made an initial determination that adoption of these regulations will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business in California.

Effect on Small Business:

DLSE has determined that these proposed regulations will affect small businesses.

**Cost Impacts on Representative Private Persons or
Businesses:**

DLSE has made an initial determination that the adoption of these regulations will not have a significant cost impact on representative private persons or businesses. Existing law (Labor Code Section 2802) requires employers to indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequences of the discharge of his or her duties. These regulations merely specify the methods by which employers may reimburse their employees for travel expenses incurred in connection with the use of their personal vehicles for work and overnight travel for

work, the records that must be kept, and other procedures.

Effect on Federal Funding to the State:

DLSE has determined that the proposed regulatory action results in no costs or savings in federal funding to the State.

Effect on Housing Costs:

DLSE has made an initial determination that the adoption of these regulations will have no significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

DLSE must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of DLSE, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action. DLSE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the hearings or during the written comment period.

CONTACT PERSONS

The text of the proposed regulations, the initial statement of reasons, and the modified text of the regulations, if any, may be accessed at DLSE's website (<http://www.dir.ca.gov/dlse>). For those without Internet access, requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based should be directed to:

Susie Smith, Regulation Coordinator
Division of Labor Standards Enforcement
Department of Industrial Relations
801 "K" Street, Suite 2100
Sacramento, CA 95814
Telephone: (916) 322-3157
FAX (916) 322-1267

In the event the contact person is unavailable, inquiries regarding the proposed regulatory action should be directed to the following backup contact person:

Anne Hipshman, Industrial Relations Counsel IV
Division of Labor Standards Enforcement
Department of Industrial Relations
455 Golden Gate Avenue, 9th Floor West
San Francisco, CA 94102
Telephone: (415) 703-4863
FAX (415) 703-4806

Inquiries concerning the substance of the proposed action may be directed to Susie Smith at the address and phone number specified above.

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

DLSE will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its San Francisco headquarters office at 455 Golden Gate Avenue, 9th Floor West, San Francisco, CA 94102. A copy will also be available at 801 "K" Street, Suite 2100, Sacramento, CA 95814 as specified herein. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulations are also available on DLSE's website (<http://www.dir.ca.gov/dlse>). As of the date this notice is published in the Notice Register, the rulemaking file consists of: (1) this notice; (2) the proposed text of the regulations; (3) the initial statement of reasons; 4) Tide-water Marine Western, Inc. v. Victoria L. Bradshaw (14 Cal. 4th 557); 5) Internal Revenue Service Publication 463 Entertainment, Gift, and Car Expense; 6) Internal Revenue Service Publication 1542; 7) DLSE Opinion Letter 1994.08.14; and 8) DLSE Opinion Letter 1998.11.05. Copies may be obtained by contacting Susie Smith at the address or phone number listed above.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, DLSE may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which DLSE adopts the regulations. Requests for copies of the modified regulations, if any, should be sent to the attention of Susie Smith at the address indicated above. DLSE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code Section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on the DLSE's website (<http://www.dir.ca.gov/dlse>).

**TITLE 13. CALIFORNIA HIGHWAY
PATROL**

**NOTICE OF PROPOSED REGULATORY
ACTION**

TITLE 13. CALIFORNIA CODE OF
REGULATIONS
DIVISION 2, CHAPTER 6.5, AMEND ARTICLE 1,
SECTION 1201; ARTICLE 3, SECTIONS 1212,
1212.5, 1213, AND ARTICLE 6, SECTION 1234

**MOTOR CARRIER SAFETY – HOURS OF
SERVICE
(CHP–R–06–04)
(OAL File Number)**

The California Highway Patrol (CHP) proposes to amend the Motor Carrier Safety Regulations contained in Title 13, California Code of Regulations (13 CCR) to be consistent with the current version of adopted federal regulations in Title 49, Code of Federal Regulations (49 CFR), Part 395.

**INFORMATIVE DIGEST/PLAIN ENGLISH
OVERVIEW**

Title 13 CCR, Division 2, Chapter 6.5 contains the CHP Motor Carrier Safety Regulations. Article 1, Sections 1200 through 1202.2, contain the Definitions and General Provisions; Article 3, Sections 1212 through 1218, contain the General Driving Requirements; and Article 6, Sections 1229 through 1235, contain the Carrier Requirements.

This rulemaking action adopts driver hours of service rules which are essentially identical to the recently adopted federal driver hours of service rules listed in 49 CFR, Part 395. By adopting the essentially identical regulations, this rulemaking action will enhance the competitiveness of California by eliminating or modifying, to the extent possible, regulations that represent a negative impact on businesses by conflicting with updated federal regulations. Also, this rulemaking will allow the CHP to comply with the requirements of California Vehicle Code (VC), Section 34501.2, and remain consistent with regulations adopted by the United States Department of Transportation. These changes will also enhance public safety and make the regulations more accessible by adding additional clarifying language.

PUBLIC COMMENTS

Any person may submit written comments on the proposed action via facsimile at (916) 446-4579 or by writing to:

California Highway Patrol
Commercial Vehicle Section—062
ATTN.: Gary Ritz
PO Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 P.M., February 5, 2007.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP, CVS, at (916) 445-1865. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Gary Ritz, or Mr. Greg Bragg, CHP, CVS, at (916) 445-1865. Inquiries regarding the substance of the proposed regulations should also be directed to Mr. Ritz or Mr. Bragg.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or

nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, or state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulation will not affect small business. The overlying statute (34501.2 VC) mandates California's drivers' hours of service regulations applicable to all drivers of commercial motor vehicles, remain consistent with federal drivers' hours of service regulations. This proposal will amend those regulations as required by statute. However, the regulated community is encouraged to respond during the public comment period of this regulatory process if significant impacts are identified.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites inter-

ested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Sections 31401, 34501, 34501.5 and 34508 VC; and Section 39831 of the Education Code (EC).

REFERENCE

This action implements, interprets, or makes specific Sections 545, 546, 31401, 34003, 34501, 34501.2, 34501.5 and 34508 VC; and Section 39831 EC.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 8282 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 7857, 8250.5, 8281, 8282, 8284, 9000, 9001, 9001.7, 9002, 9005, 9006 and 9011 of said Code, proposes to amend Section 125 and add Section 125.1, Title 14, California Code of Regulations, relating to the use of rock crabs as bait in commercial finfish traps.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. Establish Regulations Clarifying Use of Rock Crab as Bait in Finfish Traps

Fish and Game Code subdivision 9001.7(j)(2) specifies that rock crab may be used as bait in finfish traps under authority of a rock crab trap permit. Meanwhile, Fish and Game Code Section 8282 specifies that rock crab taken commercially must be a minimum size of 4 1/4 inches, and Section 5508 of the Fish and Game Code specifies that no species of fish can be possessed on a boat in a condition that its size cannot be determined.

A past common practice used by finfish trap fishermen, particularly those targeting California sheephead, has been to use crushed rock crab as bait in finfish traps. However, once a rock crab is crushed, its size can no longer be determined. Consequently, Department enforcement staff are unable to enforce violations of the minimum size limit when undersized rock crab are used as bait in this manner.

Similarly, Section 5509 of the Fish and Game Code specifies that no species of fish may be possessed on a boat in a condition that the species cannot be determined. Once a rock crab is crushed, it may become indistinguishable from other species.

The Department proposes the Commission adopt clarifying language, pursuant to its authority to manage the rock crab resource established in Fish and Game Code Section 8282, to make clear that these two Code provisions apply specifically to rock crab that is used as bait in finfish traps, despite the authorization to use crabs as bait as provided in subdivision 9001.7(j)(2). The proposed regulations will serve to resolve any potential conflict or misinterpretation of the statutory provisions by making them specifically applicable to the situation of rock crab utilized as bait in finfish traps.

Department enforcement staff believe that at this time, several finfish trappers who use rock crab as bait are already abiding by lawful methods in practice, however, adding the proposed regulatory language will provide needed clarity to all constituents and fishery participants.

Because legal methods of using rock crabs as bait are already being used successfully by many finfish trappers apparently without reduction in their fishing success, the Department believes that the proposed change to finfish trap baiting practices will not result in any loss in revenue from reduced catches, or add additional operating costs for finfish trap fishermen.

The proposed language simply states that rock crab used as bait must be maintained in such a condition that their size and species may be readily determined. This requirement is consistent with the existing laws established in Fish and Game Code sections 5508 and 5509.

2. Incorporate a Rock Crab Permit Revocation and Suspension Provision into Regulations in Section 125, Title 14, CCR

The Department proposes to add regulatory language that would allow a northern or southern rock crab permit to be revoked or suspended by the Commission upon violation of the Fish and Game Code, or violation of other regulations adopted by the Commission, by the holders thereof, their agents, employees, or those acting under their direction and control.

Regulations that allow for revocation or suspension of permits are commonplace for California's commercial fishery permit programs. The Department proposes adding the provision in order to provide notice to permit holders that violations could result in suspension or revocation of their northern or southern rock crab permit.

3. Technical, Organizational and Clarifying Changes

The Department proposes to amend the title heading of Section 125, Title 14, CCR, from "Commercial Take of Rock Crab" to "Commercial Rock Crab Permits."

This more accurately describes the content of the present regulations in this Section. Secondly, the Department proposes to add new Section 125.1, where the regulations that specify the requirements for commercial take of rock crab would be stipulated, including the proposed new language governing the use of rock crabs as bait in finfish traps.

4. Repealer of Select Rock Crab Statutes — Inclusion in Title 14, CCR

In conjunction with proposed legislative amendments to strike sections of the Fish and Game Code pertaining to rock crab fishing, the Department proposes that the Commission institute in its regulations three additional items, under its authority to manage the rock crab fishery granted in Section 8282.

While the Commission has management authority over the commercial rock crab fishery, there are many Fish and Game Code statutes that apply to rock crab fishing and crab fishing generally. These statutes predate the delegation of management authority, which became effective in 2004. However, the Commission does not have the authority to make inoperative applicable statutes, as it does for commercial fisheries that are managed under authority of a Fishery Management Plan established under authority of the Marine Life Management Act. Therefore, the Commission cannot simply adopt a regulation that makes a particular statute inoperative, as it can for some other fisheries.

Therefore, the Department is proceeding with efforts to repeal the statutory language, but first proposes the Commission establish the Title 14 regulations under its own authority.

The three items are as follows, and would all be included within the text of proposed new Section 125.1:

- (a) Refined language defining the rock crab minimum size limit of 4 1/4 inches; presently located in Fish and Game Code subdivision 8282(a);
- (b) The requirement that any person taking rock crab carry a measuring device and follow specified measuring procedures; presently located in Fish and Game Code subdivision 8282(b); along with the requirement that any undersized crab must be released immediately.
- (c) Incidental take provisions presently found in Fish and Game Code subdivision 8284(b) would be updated to reflect the rock crab permit requirement, and clarifying language would be added so that any species taken incidentally shall be released immediately.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Beach Resort Monterey, Bayview Conference Room, 2600 Sand Dunes Drive, Monterey, California, on Friday, February 2,

2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Humboldt State University, Founders Hall, Green and Gold Room, 1 Harpst Street, Arcata, California, on Friday, March 2, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before February 23, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on February 27, 2007.** All comments must be received no later than March 2, 2007, at the hearing in Arcata, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Mike McBride, Enforcement Branch, Department of Fish and Game, phone (909) 987-7262, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed reg-

ulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Reinforcing the requirements on how rock crab may be used or possessed as bait in finfish traps is proposed to aid enforcement, and improve the understanding of existing law as the new regulations only make clear the circumstances under which rock crab may be used as bait.

Since rock crab will continue to be authorized for use as bait in traps, and there will be little if any change required to the fishing practices of commercial finfish trap fishermen, the Department does not anticipate any change in the harvest levels or operating costs associated with finfish trap fishing activities.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on February 5, 2007.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5 p.m. on January 22, 2006.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 4005 and to implement, interpret, and make specific reference to sections 4022.5, 4029, 4030, 4037, 4042, 4043, 4053, 4110, 4112, 4115, 4120, 4127.1, 4141, 4160, 4161, 4180, 4190, 4200, 4201, 4202, 4203, 4204, 4205, and 4208, Business and Professions Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 4005 generally authorizes the board to amend rules and regulations pertaining to the practice of pharmacy.

In 1997, the board established the provisions of 1706.2 to define when an application for a pharmacy, manufacturer, supplier, clinic, medical device retailer,

or warehouse of a medical device retailer, had been abandoned. In 2005, the board updated this regulation to add non-resident pharmacy, sterile injectable compounding pharmacy to the regulation and to delete the terms, manufacturer, supplier, medical device retailer, and warehouse of a medical device retailer. This proposed regulation change would update the regulation to add veterinary food-animal drug retailer, hypodermic needle and syringes, pharmacist interns and designated representatives to the regulation.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board of Pharmacy has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board of Pharmacy is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action other than the forfeiture of an application fee submitted for an application that is deemed abandoned.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board of Pharmacy has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting small business other than the forfeiture of an application fee submitted for an application that is deemed abandoned

CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy must determine that no reasonable alternative it considered or that has otherwise

been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd. N219, Sacramento, California 95834, or from the Board of Pharmacy Web site (www.pharmacy.ca.gov).

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Anne Sodergren
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7913
Fax No.: (916) 574-8618
E-mail Address: anne_sodergren@dca.ca.gov

The backup contact person is:

Name: Virginia Herold
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7911
Fax No.: (916) 574-8618
E-mail Address: virginia_herold@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.pharmacy.ca.gov.

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on February 5, 2007.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5 p.m. on January 22, 2007.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 125.9, 148, 685 and 4005 of the Business and Professions Code and Section 56.63 of the Civil Code, and to implement, interpret or make specific Sections 125.9, 148 and 685 of the Business and Professions Code and Section 56.63 of the Civil Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 125.9 authorizes the board to establish by regulation, a system for issuing citations and fines up to \$5,000 for violations of the Pharmacy Law (Business and Professions Code section 4000 et seq.) and the regulations adopted pursuant thereto.

Business and Professions Code Section 148 authorizes the board to establish by regulation, a system for issuing citations and fines up to \$5,000 to persons who act in the capacity of a licensed person under the juris-

diction of the board without benefit of a license (i.e., unlicensed practice).

Business and Professions Code Section 685 permits the board to issue a citation and fine to any currently licensed health care practitioner that defaults on specified student loans.

Business and Professions Code Section 4005 authorizes the board to amend rules and regulations pertaining to the practice of pharmacy.

Business and Professions Code Section 4067 authorizes the board to issue a citation with a fine of up to \$25,000 per violation for dispensing a dangerous drug or dangerous device over the internet when the person knew or reasonably should have known the prescription was not based on a good faith medical examination.

Business and Professions Code Section 4127.4 authorizes the board to issue a citation with a fine of up to \$2,500 per occurrence for violations relating to the compounding of sterile injectable drug products.

Civil Code Section 56.36 authorizes the board to issue citations and fines ranging from \$5,000 up to \$250,000 to its licensees for violation of the Confidentiality of Medical Information Act (Civil Code 56 et seq.).

Section 1775.4 details the procedures for contesting a citation. This proposal would allow for a person or entity to request that the informal office conference to contest a citation issued be rescheduled. Such a request could only be made once.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board of Pharmacy has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board of Pharmacy is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board of Pharmacy has determined that the proposed regulations would not affect small businesses. The proposed regulations affect internal board operations and would have no effect on small businesses.

CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy determined that no reasonable alternative which it considered either would be more effective than or as effective as and less burdensome on affected private persons than the proposal described.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd. N219, Sacramento, California 95834, or from the Board of Pharmacy Web site (www.pharmacy.ca.gov).

**AVAILABILITY AND LOCATION OF
THE FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written re-

quest to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Anne Sodergren
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7913
Fax No.: (916) 574-8618
E-mail Address: anne_sodergren@dca.ca.gov

The backup contact person is:

Name: Virginia Herold
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7911
Fax No.: (916) 574-8618
E-mail Address: virginia_herold@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.pharmacy.ca.gov.

TITLE 16. BOARD OF PSYCHOLOGY

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hotel De Anza, 233 West Santa Clara Street, San Jose, California, at 9:00 a.m., or as soon as practicable thereafter, on February 10, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office not later than 5:00 p.m. on Thursday, February 8, 2007 or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2930, 2942, 2946, 2987 and 2989 of the Business and Professions Code, and to implement, interpret or make specific Sections 123, 496, 2941, 2942, 2943, 2946, 2960, 2987, 2988 and 2989 of said

Code, the board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law states that to become licensed as a psychologist, an applicant, among other criteria, must take and pass the California Psychology Supplemental Examination (CPSE). This proposed regulation would add a new examination titled the California Laws and Ethics Examination (CLEE) for those applicants currently licensed in another state, Canadian province, or U.S. territory, that are seeking licensure in California and meet the criteria in California Code of Regulations section 1388.6. Currently, those are applicants who hold a Certificate of Professional Qualification (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB), and applicants who are credentialed as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology (NRHSPP).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

Letter from Stephen DeMers, Ed.D., Executive Officer, Association of State and Provincial Psychology Boards (ASPPB) — Attachment A

Memorandum from Robert Kahane, Executive Officer, Board of Psychology — Attachment B

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or

new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulation would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Psychology at 1422 Howe Avenue, Suite 22, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written re-

quest to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kathy Bradbury
Address: 1422 Howe Avenue, Suite 22
Sacramento, CA 95825
Telephone No.: (916) 263-0712
Fax No.: (916) 263-2697
E-mail Address: kathy_bradbury@dca.ca.gov

The backup contact person is:

Name: Jeffrey Thomas
Address: 1422 Howe Avenue, Suite 22
Sacramento, CA 95825
Telephone No.: (916) 263-1617
Fax No.: (916) 263-2697
E-Mail Address: jeff_thomas@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.psychboard.ca.gov.

ATTACHMENT A

7/26/06

Robert I. Kahane
Executive Officer, Board of Psychology
1422 Howe Avenue, Suite 22
Sacramento, CA 95825

RE: CPQ Holders and the CPSE

Dear Robert:

I am looking forward to meeting with you and members of the California Board of Psychology in San Diego on August 4th. As we discussed via email, I thought it might be helpful to frame the issue from ASPPB's perspective in advance of the meeting so that our time can be focused on seeking a remedy to this problem.

In 1998, ASPPB launched the Certificate of Professional Qualification Program (CPQ) after several years of development and discussion at ASPPB membership meetings. The CPQ is an individually based certification program designed to facilitate professional mobility. It is based on the very successful programs of individual certification used by other professions such as pharmacy and architecture. In an endorsement program like CPQ, an individual must apply for the certificate by submitting evidence and documentation that they meet the criteria of education, training and examination performance that have been established by the issuing body. In developing the CPQ, ASPPB considered the variations in licensure requirements across jurisdic-

tions and then proposed to our member boards a set of CPQ criteria that reflected the most commonly used licensure standards. For example, while all ASPPB jurisdictions use the EPPP as the licensing exam, there was still some variation in passing scores used. Almost all states and provinces specify two years of supervised experience but the details about this experience (e.g. number of hours in each year, qualifications of supervisors) also varies across states and provinces. Another source of variation was the use of an oral exam of competence to practice. Over half of ASPPB member jurisdictions used an oral exam in 1995 and believed firmly in its necessity to adequately protect the public. Other jurisdictions either didn't believe in oral exams or had abandoned them after a court challenge or legislative directive. This was a tough call but the ASPPB Board of Directors decided to require that an individual applying for the CPQ have taken and passed an oral exam to qualify for the CPQ. For those individuals who hold a license in psychology but have never been required to take an oral exam (e.g. New York, Illinois, Massachusetts) the ASPPB would administer its own oral exam. Interestingly, ASPPB modeled its oral exam on the procedures used by the California Board of Psychology. Finally, an applicant for the CPQ could not obtain the CPQ if they had any record of discipline in ASPPB's Disciplinary Data System.

Of course the other side of the mobility equation is acceptance of the CPQ by ASPPB member jurisdictions. The philosophy of the CPQ Program is jurisdictions agreeing to accept the CPQ as evidence of licensure eligibility are agreeing to exchange the minor variations in licensing laws across jurisdictions for the assurance that a CPQ holder has been licensed by another ASPPB member jurisdiction based on an acceptable doctoral degree, have had their education, training, experience, examination and disciplinary history reviewed by the association of psychology regulatory boards and have had a minimum of five years of post licensure experience. The ASPPB Mobility Committee and Board of Directors debated issues like allowing jurisdictions to administer their own oral exam to CPQ holders but decided that the CPQ would not then represent true mobility. Under the terms of the CPQ program, jurisdictions are free to administer their own jurisprudence exam (written or oral), use an oral interview to determine intended areas of practice or require other locally prescribed qualifications (e.g. domestic violence or cultural competence training). The ASPPB leaders felt strongly that acceptance of the CPQ should mean the same thing in all member jurisdictions i.e. that the individual's education, training, supervised experience, examinations and competence to practice is assumed based on their license to practice in another jurisdiction, their minimum of five years of post licensure experi-

ence and their meeting requirements for the CPQ. ASPPB goes to extensive lengths to source verify the education, training, work experience and discipline history of all CPQ applicants.

When the CPQ Program began accepting applications in 1998, there were about 8 jurisdictions that had already agreed to accept the credential as a basis for relicensure. The ASPPB Board decided not to require formal agreements with member jurisdictions since the CPQ program was intended to be a voluntary program intended to assist member boards in the relicensure of experienced psychologists meeting commonly accepted standards. While not among the original jurisdictions, California agreed to accept the CPQ within the first year of program operation. This was significant because the California oral examination was waived for CPQ holders and this made the CPQ an attractive credential to individuals seeking licensure in California. All reports to our ASPPB staff indicate that CPQ has worked effectively in California to facilitate the relicensure of experienced psychologists.

When California decided to drop the oral exam for licensure in psychology and require a jurisprudence exam instead, this was certainly noted in the psychology credentialing world because of the reputation of the California oral exam as the "gold standard" for other jurisdictions. Substituting a jurisprudence exam for the oral presented no conflict with the policies of the CPQ Program. Since California dropped the oral exam, several other jurisdictions have also abandoned oral exams for psychology licensure, which lead to ASPPB also removing the requirement that CPQ applicants have taken and passed an oral exam to qualify for the CPQ. However, because the majority of member jurisdictions now have no oral exam, the CPQ policies continue to assure applicants for the credential that jurisdictions agreeing to accept the CPQ are accepting this credential as evidence of the adequacy of their training, experience, examination performance and competence to practice.

Around January of this year, I was contacted by a CPQ holder who had moved to California and was applying for licensure using his CPQ. He sent me a copy of the letter he received stating he needed to take and pass the California Psychology Supplementary Exam. The letter and other documentation revealed that this new exam in California included aspects that assessed the individual's competence to practice (i.e. diagnostic and treatment skills) and not just knowledge of mental health law and ethics. I visited the web site of the California Board of Psychology and verified the information about the content of the CPSE as more than a

jurisprudence exam. I also reviewed the law and regulations in California and see that this requirement for CPQ holders to pass the CPSE is included in statute and regulation. This presents a significant problem for California's continued listing as accepting the CPQ for mobility. Under our agreement with CPQ holders, we list on our website and in our promotional materials the 39 jurisdictions that currently accept the CPQ as well as the 15 others that have voted to do so and are amending their laws and statutes to implement the process. Unless there is some method to amend the regulations requiring CPQ holders to pass the CPSE or some way to modify the content of the CPSE to include only jurisprudence items for CPQ holders, then it would appear that ASPPB will be forced to drop California from the list of jurisdictions participating in the CPQ program.

We would greatly regret having to take such action and believe that California's participation in the CPQ program has been a significant help to both the state of California and individual psychologists. ASPPB's interest in addressing the mobility problem has always been based on the concern that the profession and the regulatory boards had to solve this problem in a manner that emphasized consumer protection. It is our belief that unless psychology and other professions address the very real problems of professional mobility, forces outside the professions, particularly anti-regulatory groups and federal government initiatives on free markets, might precipitate an imposed solution to problems of professional mobility that would be offensive to our members.

Thus, ASPPB is very concerned about the potential loss of California to the list of jurisdictions accepting the CPQ. I asked for the opportunity to meet with representatives of the California Board of Psychology so that we could explore any possible remedies to the apparent conflict that currently exists between California licensure requirements and the policies of the CPQ Program.

I hope this letter describing the history and philosophy of the CPQ Program and its relation to the use of the CPSE with CPQ holders has been helpful background to our upcoming discussion. I look forward to our meeting on August 4, 2006 in San Diego and I hope that we are able to craft a mutually satisfying resolution to this issue.

Sincerely,

/s/

Stephen T. DeMers, Ed.D.
Executive Officer

BOARD OF PSYCHOLOGY
1422 HOWE AVENUE, SUITE 22
SACRAMENTO, CA 95825-3200
(916) 263-2699
www.psychboard.ca.gov

MEMORANDUM

DATE: November 13, 2006
TO: Committee/Board Members
FROM: Robert Kahane, Executive Officer
SUBJECT: ASPPB-CPQ Reciprocity Status

During the August 2006 Board Meeting in San Diego, Stephen DeMers, Ed.D, Executive Director of the Association of State and Provincial Psychology Boards, met with the Examination Committee concerning our California Supplemental Psychology Examination (CPSE). This exam, in the current form, given to holders of the Certificate of Professional Quality, would result in California being removed from the ASPPB list of states accepting the CPQ. Holders of the CPQ would be tested only on "Laws and Ethics" when relocating their practice to California.

The issue is currently being addressed in the following manner:

1. Mr. Thomas and I met last month with Nancy Linn, who has replaced Linda Hooper as our Testing Development Specialist, and Gary Weitman (Acting Chief, Office of Examination Resources). They were most receptive to our development of an exam specifically designed for testing laws and ethics regarding the practice of psychology in California. The tentative name for this examination of 50 questions is the California Law and Ethics Exam (CLEE).
2. A testing development focus group, consisting of eight psychologists, will be meeting on January 25-26, 2007. This group, as yet to be decided, will include four recent California licensees, who are holders of the CPQ and four other practitioners. I have spoken to Dr. Emil Rodolfa about contributing to this process as one of the SME's.
3. Testing validation and processes, incorporated changes in regulation with Department of Consumer Affairs and OAL approval timeframes, should allow the examination to be ready by our target date of August 1, 2007.
4. Our timely solution to the issues raised by ASPPB would enable our state to continue being listed as accepting the CPQ, without our name being withdrawn from that list of states accepting that certificate.

5. I met with Dr. Demers at the ASPPB conference in San Diego and he was very pleased with our progress in developing a new exam for the holders of the CPQ.

TITLE 16. BOARD OF PSYCHOLOGY

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hotel De Anza, 233 West Santa Clara Street, San Jose, California, at 9:00 a.m., or as soon as practicable thereafter, on February 10, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office not later than 5:00 p.m. on Thursday, February 8, 2007 or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2930 of the Business and Professions Code, and to implement, interpret or make specific Section 2914 of said Code, the board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires, among other things, an applicant for licensure as a psychologist to complete at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined in regulations, or under suitable alternative supervision as determined by the board in regulation, specifically in this proposal.

Currently, section 1387.3 pertains to supervised professional experience for trainees preparing for practice in non-mental health services. This proposal would expand and further define the accrual of supervised professional experience for those trainees who are preparing for practice, once licensed, in the non-mental health areas of the profession of psychology.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

N/A

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulation would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Psychology at 1422 Howe Avenue, Suite 22, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kathy Bradbury
Address: 1422 Howe Avenue, Suite 22
Sacramento, CA 95825
Telephone No.: (916) 263-0712
Fax No.: (916) 263-2697
E-Mail Address: kathy_bradbury@dca.ca.gov

The backup contact person is:

Name: Jeffrey Thomas
Address: 1422 Howe Avenue, Suite 22
Sacramento, CA 95825
Telephone No.: (916) 263-1617
Fax No.: (916) 263-2697
E-Mail Address: jeff_thomas@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.psychboard.ca.gov.

TITLE 16. BOARD OF REGISTERED NURSING

FISCAL IMPACT ESTIMATES

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Board of Registered Nursing, 1625 N. Market Blvd., Ste N217, Sacramento, California, at 10:00 A.M., on February 6, 2007. Written comments must be received by the Board of Registered Nursing at its office not later than 5:00 p.m. on February 5, 2007 or must be received by the Board at the hearing. Written comments may be submitted by mail at the address listed above, by e-mail alcidia_valim@dca.ca.gov, or by fax at (916) 574-8637. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 125.9, 148 and 2715 of the Business and Professions Code, and to implement, interpret or make specific Sections 125.9 and 148 of said Code, the Board of Registered Nursing is considering changes to Division 14 of Title 16 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Sections 125.9 and 148 permit the Board of Registered Nursing to establish, by regulation, a citation and fine system. The maximum fine amount authorized by statute was increased from \$2500 to \$5000 effective January 2004. The regulatory proposal amends Section 1435.2, increasing the maximum fine amount that the Board of Registered Nursing may impose to \$5000, specifying the circumstances under which the higher fine could be imposed, and making other nonsubstantive changes.

The regulatory proposal affects registered nurses and unlicensed individuals who violate the Nursing Practice Act; it does not affect small businesses.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Board has determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The proposal would have minimal cost impact on registered nurses or unlicensed individuals who are issued a citation by the Board. Specifically, citations include fines that range from \$100 to \$5000.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The regulatory proposal affects only registered nurses and unlicensed individuals who have been issued a Board citation and assessed a fine for a violation that meets specified criteria.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Registered Nursing at 1625 N. Market Blvd., Ste N217, Sacramento, California.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person, named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to Alcidia Valim at (916) 574-7684; or fax to (916) 574-8637; or e-mail to alcidia_valim@dca.ca.gov.

The backup contact person is Geri Nibbs at (916) 574-7682, or fax to (916) 574-8637; or email to geri_nibbs@dca.ca.gov.

The person designated to respond to questions on the substance of the regulatory proposal is Geri Nibbs.

Website Access: Materials regarding this proposal can be found at the Board's website: www.rn.ca.gov.

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22, California Code of Regulations, Sections 926-3, 926-4, and 926-5

TAXABLE VALUE OF MEALS AND LODGING

Notice of Proposed Rulemaking

The Employment Development Department (Department) proposes to amend California Code of Regu-

lations (CCR), title 22, sections 926-3, 926-4, and 926-5, by increasing the taxable value of meals and lodging furnished to employees by employers during calendar year 2007. These increases are due to inflation.

The Department will adopt these amendments after considering all comments, objections, or recommendations regarding the proposed action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CCR, title 22, sections 926-3, 926-4, and 926-5, provide the taxable value of meals and lodging furnished to employees by employers. In order to establish the equivalent amount of cash wages paid by employers who pay a portion of their employee's wages in the form of meals or lodging, it is necessary to compute the reasonable cash value of such meals and lodging for unemployment insurance purposes. The Employment Development Department (Department) makes this computation each calendar year to reflect the upward or downward trend in the cost of living during the previous calendar year. This yearly computation ensures an accurate and up-to-date calculation of the taxable values of meals and lodging for purposes of "wages" within the meaning of Unemployment Insurance Code (UIC) section 926.

According to the United States Department of Labor, Bureau of Labor Statistics [<http://data.bls.gov/cgi-bin/srgate>], the average retail food price index for fiscal year 2005-2006 was 201.3, up 471.9 percent from the average of 35.2 for the base year 1968-69. The average residential rent index for the fiscal year 2005-2006 was 250.4. This is 462.7 percent above the average residential rent index of 44.5 for the base year ended June 30, 1973. The Department uses 1968-69 as the base year for food and 1972-1973 as the base year for rent because these are the years used by the Bureau of Labor Statistics.

These regulations are being amended to reflect, in substantially the same ratio, the increases in the retail food price index and residential rent index which occurred during the fiscal year ended June 30, 2006.

Notwithstanding sections 926-3(a)(2), and 926-4(a)(2), and 926-5(a)(2)(A) of CCR, title 22, which state in part: "For the calendar year 2007 and thereafter, except as modified herein . . .", the Department recognizes that the amendments made to these sections will not become effective until the regulations are approved by the Office of Administrative Law.

Section 926-3.

This regulatory action will amend section 926-3, relating to the taxable value of board and lodging. In 2007 and thereafter until modified, the taxable value of three meals per day is raised from \$9.15 to \$9.30. The taxable

value of dinner is raised from \$4.35 to \$4.50. The taxable value of lodging is raised from \$1,000.00 to \$1,041.00 monthly maximum, and from \$32.45 to \$33.80 weekly minimum.

Section 926-4.

This regulatory action will amend section 926-4, relating to the taxable value of meals and quarters furnished to officers and crewmen aboard vessels. In 2007 and thereafter until modified, the taxable value of daily meals is increased from \$9.15 to \$9.30. The taxable value of quarters is increased from \$4.60 to \$4.80 daily for unlicensed personnel. The taxable value of quarters is increased from \$6.80 to \$7.00 daily for licensed personnel.

Section 926-5.

This regulatory action will amend section 926-5, relating to the taxable value of meals and quarters received by fishermen aboard fishing vessels. In 2007 and thereafter until modified, the taxable value of quarters is increased from \$32.45 to \$33.80 a week, or from \$4.60 to \$4.80 a day for periods of less than a week under specified conditions.

Authority and Reference:

Authority: Sections 305, .306 and 310, Unemployment Insurance Code.

Reference: Section 926, Unemployment Insurance Code.

Fiscal Impact:

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: Approximately 308,902 businesses and small businesses will be affected statewide by these regulations. The types of businesses affected include fisheries, restaurants and eating establishments, apartment complexes, private households, residential care facilities, and home health care. The total statewide cost to businesses and small businesses is anticipated to be \$3.4 million, however, the cost to individual businesses is minimal. The regulation does not impose any new reporting requirements on businesses.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new busi-

nesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: These proposed amendments will affect only those employees who are furnished meals or lodging by their employers. The Department anticipates that the fiscal impact to employees will be negligible.

Anticipated impact on housing costs: These proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

Small Business Impact:

These proposed amendments will not have a significant impact on small businesses since the changes reflect small inflationary increases in the taxable value of meals and lodging for purposes of wages within the meaning of section 926 of the UIC. Essentially, the proposed amendments will only accelerate the point at which an employee reaches the maximum taxable wage limit for the calendar year.

Local Mandate Determination:

The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Consideration of Alternatives:

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory amendments.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than February 5, 2007, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

CONTACT PERSONS

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712

Fax No.: (916) 654-9069

E-mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst

Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Estela Gallawa, Staff Counsel

Telephone No.: (916) 654-8410

notification from the agency of the availability of such changes.

Final Statement of Reasons:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulatory amendments discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the amendments; and the information upon which the Department relied in proposing the amendments. (If you received this notice by mail, a copy of the text of the proposed amendments and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed amendments are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

INTERNET WEBSITE ACCESS

The Department has posted on its Internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

Public Hearing:

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on February 5, 2007.** A request for hearing can be made by contacting the persons noted above.

Modification of Proposed Action:

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested

GENERAL PUBLIC INTEREST

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its December 7, 2006, meeting in Santa Monica, accepted for consideration the petition submitted by the Endangered Species Recovery Council to delist the California Brown Pelican (*Pelecanus occidentalis californicus*) from the Endangered Species List. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species for delisting as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Game shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the December 7, 2006, Commission meeting, are on file and available for public review

from John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its December 7, 2006, meeting in Santa Monica, accepted for consideration the petition submitted by the Department of Fish and Game to remove Hanging Gardens manzanita (*Arctostaphylos edmundsii* var. *parvifolia*) from the list of rare plants. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species for delisting as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Game shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the December 7, 2006, Commission meeting, are on file and available for public review from John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its December 7, 2006, meeting in Santa Monica, accepted for consideration the petition submitted by the Department of Fish and Game to remove Marin bent grass (*Agrostis blasdalei* var. *marinensis*) from the list of rare plants. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species for delisting as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Game shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the December 7, 2006, Commission meeting, are on file and available for public review from John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its December 7, 2006, meeting in Santa Monica, accepted for consideration the petition submitted by the Department of Fish and Game to remove Slender-pod jewel-flower (*Caulanthus stenocarpus*) from the list of rare plants. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species for delisting as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Game shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the December 7, 2006, Commission meeting, are on file and available for public review from John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its December 7, 2006, meeting in Santa Monica, accepted for consideration the petition submitted by the Department of Fish and Game to remove Truckee barberry (*Mahonia sonnei*) from the list of endangered plants.

Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species for delisting as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Game shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the December 7, 2006, Commission meeting, are on file and available for public review from John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

OFFICE OF ADMINISTRATIVE LAW

REQUEST FOR PUBLIC INPUT ANNUAL RULEMAKING CALENDAR GOVERNMENT CODE 11017.6

Each year all state government agencies with rulemaking authority are required to prepare a rulemaking calendar pursuant to section 11017.6 of the Government Code. The rulemaking calendar lists anticipated rulemaking activity by the agency for the coming year. The rulemaking calendar is non-binding. Section 11017.6 specifically allows agencies to adopt rules that were not listed in the rulemaking calendar if it is required by unanticipated circumstances.

The requirement to prepare a rulemaking calendar was established in 1982 and has not been amended since 1987. In 2000 the Legislature adopted section 11340.85 of the Government Code, which requires state agencies to post all their rulemaking activity on their web sites. The information that must be posted on the web pursuant to section 11340.85 is much more extensive than that included in the annual rulemaking calendar pursuant to section 11017.6. Use of the internet as a primary information source has, obviously, increased greatly since 1982.

The Office of Administrative Law is attempting to evaluate the public's current level of reliance upon the annual rulemaking calendar as a source of information about state agency rulemaking. If you have found that the annual rulemaking calendar continues to be a valuable source of information to you, please let us know through one of the following methods:

1. Send an e-mail message to staff@oal.ca.gov;
2. Send a note via fax to (916) 323-6826;

3. Leave a telephone voice message at (916) 323-6815; or
4. Send a letter to:
Office of Administrative Law
Rulemaking Calendar Survey
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Any information that you could provide on this subject would be greatly appreciated.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

California Environmental Protection Agency Office of Environmental Health Hazard Assessment

Notice to Interested Parties

December 22, 2006

ANNOUNCEMENT

Publication of Technical Support Documents and Responses to Comments on Public Health Goals for N-NITROSODIMETHYLAMINE and CADMIUM in Drinking Water

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is announcing the publication of the technical support documents for Public Health Goals (PHGs) for N-nitrosodimethylamine and cadmium in drinking water. The final documents and responses to major comments received are posted on the OEHHA Web site (www.oehha.ca.gov). OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for developing the PHGs and providing for public input on the documents.

The first drafts of the N-nitrosodimethylamine and cadmium PHG documents were posted on the OEHHA Web site (www.oehha.ca.gov) on March 3, 2006 and a one-day public workshop was held on April 20, 2006 to discuss the scientific basis and recommendations in the draft technical support documents. Following the workshop, OEHHA revised the documents as appropriate, and made them available on August 4, 2006 for a 30-day public review and scientific comment period. OEHHA has considered all comments from interested parties at the workshop and during the public review and scientific comment periods, and finalized the documents.

The PHG technical support documents provide information on the health effects of contaminants in

drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365), requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Thomas Parker
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
Headquarters: 1001 I Street, 12th floor
Sacramento, California 95814

Attention: PHG Project
FAX: (916) 327-7320

DECISION NOT TO PROCEED

CALIFORNIA STUDENT AID COMMISSION

Pursuant to Government Code Section 11347, the California Student Aid Commission (Commission) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register, March 3, 2006 (Register 2006, 9-z, p. 241, OAL File No. Z 06-0221-03). The proposed rulemaking concerned the State Nursing Assumption Program of Loans for Education.

However, the Commission will publish a new notice on the same rulemaking proposal on December 22, 2006 (Register 2006, 51-z).

Any interested person with questions concerning this rulemaking should contact Linda Brown at either (916) 526-7599 or by email at snaple@csac.ca.gov.

The Commission will also publish this Notice on its website.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE.

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Diesel PM Control Measure Public Agencies and Utilities

In this regulatory action, the Air Resources Board adopts regulations establishing a diesel particulate matter control measure for on-road heavy-duty diesel-fueled vehicles owned or operated by public agencies and utilities.

Title 13

California Code of Regulations

ADOPT: 2022, 2022.1

Filed 12/06/06

Effective 01/05/07

Agency Contact: Alexa Malik (916) 322-4011

AIR RESOURCES BOARD

Oceangoing Vessels 2005

This regulatory action adopts a new regulation and an airborne toxic control measure (ATCM) to reduce emissions of diesel particulate matter (PM), nitrogen oxides (NOx), and sulfur oxides (SOx) from auxiliary diesel engines and diesel-electric engines operated on ocean-going vessels within 24 nautical miles of the California baseline. The regulation and ATCM will apply to ocean-going vessels operating within "Regulated California Waters" and visiting California ports beginning January 1, 2007.

Title 13, 17

California Code of Regulations

ADOPT: 2299.1, 93118

Filed 12/06/06

Effective 12/06/06

Agency Contact: Alexa Malik (916) 322-4011

BOARD OF PHARMACY

Pharmacy Techs Checking Pharmacy Techs

This rulemaking action will permit general acute care hospitals to employ specially trained pharmacy technicians in place of pharmacists to check the work of other pharmacy technicians filling floor stock, ward stock, and unit dose cassettes where orders have previously been approved by a pharmacist. Prior to initiating a Technician Checking Technician (TCT) program, a general acute care hospital pharmacy will be required to have on file a description of the clinical pharmacy program. TCT programs would be operated by a pharmacist-in-charge and be supervised by a pharmacist. The pharmacy technician performing the checking function must receive specialized advanced training and an ongoing evaluation of each program is required.

Title 16

California Code of Regulations

ADOPT: 1793.8 AMEND: 1793.7

Filed 12/07/06

Effective 01/06/07

Agency Contact:

Virginia Herold (916) 445-5014 x4005

CALIFORNIA ENERGY COMMISSION

Amendments to Appliance Efficiency Regulations — Digital Television Adapters

In this regulatory action, the California Energy Commission amends its Appliance Efficiency Regulations to change the effective date for standards for Digital Television Adapters from January 1, 2007 to January 1, 2008.

Title 20

California Code of Regulations

AMEND: 1605.3

Filed 12/11/06

Effective 12/11/06

Agency Contact: Jim Holland (916) 654-4091

DEPARTMENT OF FOOD AND AGRICULTURE

Oak Mortality Disease Control

This is the certificate of compliance to permanently adopt an emergency regulation (06-0721-09E) that controls movement of "hosts" and "associated hosts" of oak mortality disease to protect California's agricultural industry and the environment.

Title 3

California Code of Regulations

AMEND: 3700(c)

Filed 12/06/06

Effective 12/06/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE

Gypsy Moth Eradication Area

This regulatory action is the Certification of Compliance for an emergency action that was approved on 8-1-06. It adds San Mateo County to the list of counties proclaimed to be eradication areas for gypsy moth (*Lymantria dispar*). This provides authority for the state to perform control and eradication activities in San Mateo County against this seriously destructive pest.

Title 3

California Code of Regulations

AMEND: 3591.6

Filed 12/06/06

Effective 12/06/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INSURANCE

Mutual Fund Investments in Variable Products

This action is the resubmittal filing of provisions governing mutual fund investments involved in variable life insurance products. This resubmittal action codifies Insurance Department Bulletin 97-2 in regulation form as mandated by AB 2778 (Chap. 347, Stats. 2002). The prior disapproved filing resubmitted here was OAL file number 06-0509-01S.

Title 10

California Code of Regulations

ADOPT: 2534.40, 2534.41, 2534.42, 2534.43, 2534.44, 2534.45, 2534.46

Filed 12/13/06

Effective 01/12/07

Agency Contact: Gene Woo (415) 538-4496

DEPARTMENT OF SOCIAL SERVICES

Adult Day Programs

This regulatory action is a resubmittal of a previously disapproved regulatory action that implements section 1530.1 of the Health and Safety Code which requires that the Department of Social Services adopt regulations to combine adult day care and adult day support centers licensing categories into one category: adult day programs.

Title 22, MPP

California Code of Regulations

ADOPT: 82003, 82005, 82006, 82007, 82010, 82012, 82017, 82019, 82019.1, 82020, 82021, 82023, 82024, 82025, 82026, 82027, 82028, 82029, 82030, 82031, 82034, 82035, 82036, 82040, 82042, 82044, 82046, 82051, 82052, 82053, 82054, 82055, 82055.1, 82056

Filed 12/13/06

Effective 01/12/07

Agency Contact: Alison Garcia (916) 657-2586

NEW MOTOR VEHICLE BOARD
ACP Fee 2006/2007 Billing

In this action without regulatory effect, New Motor Vehicle Board is revising the fee that is calculated and collected annually from California new vehicle manufacturers and distributors to fund the Certification Account in the Consumer Affairs Fund (the Arbitration Certification Program or ACP fund) based on the formula prescribed in 13 CCR sec. 553.70 and as authorized under Business and Professions Code sec. 472.5 and Vehicle Code sec. 3016. Based on the formula, the fee will be increased for 2005 from \$.41 to \$.436 per vehicle.

Title 13
 California Code of Regulations
 AMEND: 553.70
 Filed 12/13/06
 Agency Contact: Dawn K. Kindel (916)445-1888

SECRETARY OF STATE
HAVA Statewide Voter Registration Database

The Help America Vote Act of 2002 (HAVA) in 42 U.S.C. 15483 required each state with voter registration requirements for elections for federal office to implement, through the chief state elections official, a single, uniform, official, centralized interactive computerized statewide voter registration list by January 1, 2004. Pursuant to a waiver pursuant to 42 U.S.C. 15483(d)(1)(B), the statewide voter registration list requirements became effective for California on January 1, 2006. This filing is a third readoption of an emergency regulatory action which had adopted interim provisions implementing such a list in California beginning January 1, 2006 but which expires on December 13, 2006. Pursuant to these emergency regulations, for affidavits of registration submitted on or after January 1, 2006, if a registration record does not include a driver's license or state identification number, the elections official is required to determine whether a driver's license or state identification number is available through Calvalidator (an electronic process established to verify information with the records of the Department of Motor Vehicles). If so, the elections official is required to contact the applicant to confirm the driver's license or state identification number prior to entering the number into the registration record. This filing is also a second readoption of an emergency regulatory action filed with the Secretary of State on April 24, 2006 which only required the elections official to contact the applicant if Calvalidator identifies more than one individual who possess the last name, first name, and date of birth of the registrant. That filing also contained a change in that when the elections official is unable after reasonable attempts to contact the applicant to verify a California driver's license or

state identification number or social security number on a new affidavit of registration, the elections official shall go ahead and generate a unique identification number.

Title 2
 California Code of Regulations
 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80
 Filed 12/13/06
 Effective 12/13/06
 Agency Contact:
 Michael Kanotz (916) 653-1690

CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN JULY 12, 2006 TO
DECEMBER 13, 2006

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2
 12/13/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80
 11/06/06 AMEND: 18216, 18421.1
 11/03/06 AMEND: 1859.73.2
 10/31/06 AMEND: 559.500, 559.501, 559.503, 559.504, 559.505, 559.507, 559.508, 559.509, 559.510, 559.511, 559.512, 559.513, 559.515, 559.516, 559.517
 10/12/06 AMEND: 714
 09/27/06 AMEND: 18754
 09/07/06 AMEND: 21904, 21905
 09/05/06 AMEND: 1859.2, 1859.76, 1859.83, 1859.163.1
 08/23/06 AMEND: 1181.4
 08/21/06 AMEND: 1859.2, 1859.70.1, 1859.71.3, 1859.78.5

| | | | | |
|----------------|---|----------------|--|--|
| 08/15/06 | ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80 | Title 4 | 12/05/06 | AMEND: 1582 |
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